

DECLARATION OF GABRIEL GOLDBERG

I, Gabriel Goldberg, declare as follows:

1. I am over the age of 18, and a professional photographer who resides in Los Angeles, California. The following is of my own personal knowledge, and if called as a witness in this matter I could and would competently testify to these facts.

2. I have a wide-ranging portfolio of professional work. It includes high-end portrait photography for individuals, including celebrities; editorial photography for prominent magazines and trade publications, primarily in the entertainment space; entertainment photography for film, television, theater and the arts; and commercial and corporate photography used for marketing and advertising.

3. My work has appeared on numerous magazine covers, often along with multi-page inside feature spreads, including *Deadline*, *Venue*, *Fair Lady*, *Pooch*, and *Las Vegas*. My photography has been featured in prominent advertising campaigns, including for Virgin Atlantic, Loews Hotels, The Cosmopolitan, Starwood Hotels & Resorts, Kaiser Foundation, and N2N Bodywear. My work also includes entertainment photography for the promotion of film and television programs, appearing on posters and one-sheets for various projects.

4. A significant portion of my work is high-end portrait photography, a large portion of which is for celebrities. I have shot Timothee Chalamet, Matt Damon, Jodie Foster, Cate Blanchett, Tom Hiddleston, Jane Fonda, Sarah Paulson, Mark Ruffalo, Chris Pine, and many more. For my portrait photography clients, I provide images to them for their personal use—usually for social media, head shots, and the like. I do not allow for the use of the images in connection with the commercial advertising or promotion of third-party goods and services.

5. Among my many celebrity portrait photography clients was Jennifer Lopez, who I shot in-studio some time ago. One of the portraits I created for Ms. Lopez included the image immediately below:



6. I am the original creator and exclusive owner of the copyright in and to this image. To create the image, I invested hours of time and effort on the photo shoot itself and in later production enhancing the quality of the image.

7. I currently own, and at all times have owned, all rights, title, and interest, including copyrights, in and to this image.

8. At her request, I gave Ms. Lopez permission to use the image on social media and as a head shot for personal promotion. On more than one occasion, Ms. Lopez's representatives asked for permission to use the image for other purposes, such as for the promotion of third-party goods and services, but I always declined. I never licensed the image to Forum Entertainment or its predecessor Madison Square Garden Company for any use, including the use to promote Ms. Lopez's concerts at The Forum in June 2019.

9. In late June 2019, I noticed the image of Ms. Lopez used in an advertisement on The Forum's Instagram page. A took a screenshot of the advertisement, which appears immediately below:



10. I do not license my portrait photographs for commercial advertising use to anyone other than the subject of the photographs (for their personal promotion only). This is mainly because use of the portrait in commercial advertising would require the consent of the subject of the portrait. On rare occasions, subjects of my portrait photographs have asked for permission to use my images for various commercial purposes; however, because those requests have not been accompanied by an offer of monetary compensation, I usually decline them.

11. In this case, had Forum Entertainment or its predecessor requested a license to reproduce and display the Jennifer Lopez portrait for promotion of her concerts at The Forum, I would have considered the nature of the requested use (a

1 large concert in a prominent venue for one of the most famous musical artists in the
2 world) and the extent of the use (social media promotion—and possibly more, such
3 as in-venue banners or on-ticket images, which I was unable to explore in discovery).
4 Given these considerations, I would have sought a license fee of \$50,000. Based on
5 my research, I believe that this amount fits reasonably within the range of what other
6 photographers would have sought and obtained for a similar license.

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8 I declare under penalty of perjury under the law of the United States that the
9 foregoing is true. Executed this 17th day of August, 2022.

10 DocuSigned by:

11 *Gabriel Goldberg*

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